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DRAFT BASIC LAW
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I - BASIC RIGHTS

Article 1

- (1) The dignity of man shall be inviolable. To respect and protect it shall be the duty of all state authority.
- (2) The German people therefore acknowledges inviolable and inalienable humane rights, the basis of every peaceful human community and of justice in the world.
- (3) The following basic rights shall be binding as directly valid law on legislation, administration and judiciary.

Article 2

- (1) Everyone shall have the right to life and physical inviolability, to personal freedom and security.
- (2) Everyone shall have the right to the free development of his personality, insofar as he does not infringe the rights of others or offends against the constitutional order of society or the moral code.
- (3) These rights may be interfered with only on the basis of the legal order.

Article 3

- (1) Freedom of the person shall be inviolable.
- (2) No one may arbitrarily be apprehended, arrested or otherwise detained.
- (3) Those under detention may be subjected neither to physical nor mental ill-treatment.

Article 4

- (1) All men shall be equal before the law.
- (2) Men and women shall have equal rights.
- (3) No one may be prejudiced or privileged because of his sex, descent, race, language, homeland and origin, faith, or his religious and political opinions.

Article 5

- (1) Freedom of faith and conscience and freedom of religious and ideological (weltanschauliche) profession shall be inviolable. The right to associate in religious and ideological (welanschauliche) communities shall be recognized.
- (2) Undisturbed practice of religion shall be guaranteed.
- (3) No one may be compelled to take part in, or be prevented from taking part in, church rites or ceremonies or in religious practices, or to use a religious form of oath.
- (4) No one shall be obliged to reveal his religious conviction. Inquiries as to membership of a religious and ideological (weltanschauliche) community shall be permissible if rights and duties are dependent thereon or a census ordered by law so requires.
- (5) No one may be compelled against his conscience to perform war service as a combatant. Details shall be regulated by a federal law.

Article 6

- (1) Freedom to express and to disseminate an opinion through speech, writing and picture shall be inviolable.
- (2) Instruction and formation of opinions from generally accessible sources, especially radio reception and the obtaining of printed matter, may not be restricted.
- (3) Freedom of the press and freedom of reporting by radio and film shall be guaranteed. There shall be no censorship of press, theatre, radio and lectures.
- (4) Press, radio and film shall have the duty to report faithfully.
- (5) The right of free expression of opinion and the freedom of press, radio and film shall be limited by the provisions of the general criminal law, the legal regulations for the protection of youth, especially regarding films, and by the right of personal honour. In the case of misuse of these rights through press, radio and films, action may be taken only within the framework of the legal provisions concerning press, radio and films. The decision shall be made in the course of judicial proceedings.
- (6) No one shall be obliged to disclose his political conviction.

Article 7

- (1) Art and science, research and teaching shall be free.
- (2) The freedom of teaching shall not absolve from loyalty to the Basic Law.

Article 7a

- (1) Marriage and family shall be under the special protection of the state.
- (2) The care and upbringing of children shall be the natural right of parents and the supreme duty incumbent upon them.
- (3) Children may be separated from the family against the will of those entitled to bring them up only on a legal basis, if those so entitled fail to do their duty and, therefore, a danger of the children being neglected arises.
- (4) Every mother shall have a claim to the protection and care of the community.
- (5) Illegitimate children shall through legislation be given the same conditions for their physical and spiritual development and their position in society as legitimate children.

Article 7b

- (1) The entire educational system shall be under the supervision of the state.
- (2) Those entitled to bring up the child shall have the right to decide whether it shall receive religious instruction.

Article 7a (contd.)

(3) Religious instruction shall form part of the curriculum in the state elementary, intermediate and vocational schools and higher educational establishments, with the exception of non-confessional schools. It shall, without prejudice to the State's right of supervision, be given according to the principles and doctrines of the religious communities. No teacher may be obliged against his will to give religious instruction.

(4) The right to establish private schools shall be guaranteed. Private schools as substitute for state schools shall require the sanction of the state and shall be subject to Land legislation. The sanction must be given if the private schools, in their educational aims and facilities, as well as in the scientific training of their teaching personnel, are not inferior to the state schools and if a separation of the pupils according to the means of the parents is not encouraged. The sanction must be withheld if the economic and legal position of the teaching personnel is not sufficiently assured.

(5) Private elementary schools shall be permitted only if, for a minority of those entitled to bring up children, a state elementary school of their confession or ideology (Weltanschauung) does not exist in the Gemeinde, or if the educational administration recognizes a specific pedagogic interest.

(6) Private preparatory schools shall continue to be abolished.

Article 8

(1) All Germans shall have the right, without prior notification or permission, to assemble peacefully and unarmed.

(2) For open air meetings this right may be restricted by legislation. In the event of imminent danger to public safety they may be prohibited on the basis of a law.

Article 9

(1) All Germans shall have the right to form associations and societies.

(2) Associations, the objects or activities of which conflict with the criminal laws or which are directed against the constitutional order or the concept of international understanding, shall be prohibited.

(3) The right to form associations to safeguard and improve working and economic conditions shall be guaranteed to everyone and to all professions. Agreements which seek to restrict or hinder this right shall be null and void, measures directed to this end shall be illegal.

Article 10

The secrecy of the mail as well as secrecy of the post and telecommunications shall be inviolable. Restrictions may be ordered only on the basis of a law, but not for purposes of political supervision.

Article 11

(1) All Germans shall enjoy freedom of movement throughout the federal territory. They shall have the right to sojourn and reside at any place within the federal territory.

(2) This right may be restricted only on the basis of a law, and then only if this is absolutely necessary to avert a serious danger to public safety, for the protection of juveniles and combatting the danger of epidemics.

Article 12

- (1) All Germans shall have the right freely to choose their occupation, place of work and place of training. The practice of an occupation may be regulated by law.
- (2) No one may be compelled to perform a particular kind of work, except within the framework of a traditional general compulsory public service equally applicable to everybody.
- (3) Forced labour shall be admissible only in the event of imprisonment ordered by a court.

Article 13

- (1) The dwelling shall be inviolable.
- (2) Searches may be ordered only by a judge, or in the event of imminent danger by other authorities provided by law, and be carried out only in the form prescribed therein.
- (3) Interventions and restrictions may otherwise be undertaken only to avert a common danger or mortal danger to individuals, and on the basis of a law also to prevent imminent danger to public safety and order, especially for the relief of the housing shortage, combatting the danger of epidemics or protecting juveniles exposed to dangers.

Article 14

- (1) Property and the right of inheritance shall be guaranteed. The contents and limitations shall be determined by legislation.
- (2) Property shall involve obligations. Its use shall simultaneously serve the general welfare.
- (3) Whoever abuses his property may not invoke the protection of these provisions.
- (4) Expropriation shall be admissible only for the general public. It may be effected only by law or on the basis of a law, which regulates the nature and extent of compensation. The compensation shall be determined after just consideration of the interests of the general public and the participants.

Article 15

Land and landed property, natural resources and means of production may, for the purpose of socialisation, be transferred to public ownership or other forms of publicly controlled economy by way of a law which regulates the nature and extent of compensation. For the compensation, Article 14, para 4, sentence 3, shall apply appropriately.

Article 16

No one may be deprived of his German citizenship. The loss of citizenship may only occur on the basis of law and, against the will of the person concerned, only if the person concerned is not rendered stateless thereby.

Article 17

- (1) No German may be extradited to a foreign country.
- (2) The politically persecuted shall enjoy the right of asylum.

Article 18

- (1) The right to vote in an election or plebiscite, electoral freedom and the secrecy of the ballot shall be guaranteed. A law shall decide who shall be eligible for election.
- (2) Any restriction of freedom of decision in an election or plebiscite shall be forbidden. In particular, the voter may not be deprived through the regulations governing electoral campaigns and procedure of the possibility of free choice between several candidates and several parties independent of each other and having their own programmes.

Article 19

Whoever is employed in the status of worker or employee shall have the right to the free time necessary for the exercise of his civic rights and the fulfilling of honorary public offices conferred upon him. The claim to remuneration shall remain valid, insofar as in the case of loss of earnings compensation for this loss is not granted. Details shall be regulated by law.

Article 20

Everyone shall have the right, individually or jointly with others, to address written requests or complaints to the competent authority and to the popular representative bodies.

Article 20a

The principle of equality (Article 4) and the basic rights of undisturbed practice of religion (Article 5), freedom of movement (Article 11), inviolability of the dwelling (Article 13) and of private property (Articles 14 and 15) shall apply appropriately to legal entities within the country.

Article 20b

Whoever abuses the freedom of expression of opinion, in particular the freedom of the press (Article 6), the freedom of teaching (Article 7), the freedom of assembly (Article 8), the freedom of association (Article 9), the secrecy of the mail, post and telecommunications (Article 10), or the right of asylum (Article 17, para 2), in order to attack the free, democratic basic order, shall forfeit these fundamental rights. The forfeiture and its extent shall be pronounced by the Federal Constitutional Court.

Article 20c

- (1) Insofar as according to this Basic Law a basic right may be restricted on the basis of a law, the restriction of the basic right must be generally regulated in the law. It may be enacted only as a formal law and must designate the basic right by name indicating that point of law by which it is regulated.
- (2) Insofar as a basic right may be restricted in accordance with the provisions of this Basic Law, it must not be affected in its basic content.
- (3) Should any person's rights be infringed by public authority, he may appeal to the courts. Unless another authority is provided for as competent, the appeal shall go to the ordinary courts.

II - GENERAL PROVISIONS

Article 21

- (1) The Federal Republic of Germany is a democratic and social federal state.
- (2) All state authority emanates from the people.
- (3) It shall be exercised by the people in accordance with this Basic Law by means of elections and plebiscites and by means of separate legislative, judicial and executive organs. The government shall be responsible to the people.
- (4) Legislation shall be limited by the constitution, the administration of justice and the executive by legislation and the law.

Article 21a

- (1) The parties shall participate in forming the political will of the people. They can be freely formed. Their internal organisation must conform to democratic principles.
- (2) Parties which, according to their aims and the behaviour of their members, seek to impair or abolish the free and democratic fundamental order or to jeopardize the existence of the Federal Republic of Germany, shall be unconstitutional. The Federal Constitutional Court shall decide on the question of unconstitutionality.
- (3) Details shall be regulated by federal legislation.

Article 21b

The federal colours shall be Black, Red and Gold.

Note: Discussion on the form of the flag was postponed and it is intended to take a single division at the final reading.

Article 22

- (1) For the time being, this Basic Law shall apply in the territory of the Laender Baden, Bavaria, Bremen, Greater Berlin, Hamburg, Hesse, Lower Saxony, North Rhine-Westphalia, Rhineland-Palatinate, Schleswig-Holstein, Wuerttemberg-Baden and Wuerttemberg-Hohenzollern.
- (2) This Basic Law shall on the accession of another part of Germany be put into force for that part by federal law.

Article 24

- (1) The cession or exchange of parts of German state territory shall be valid only with the consent of the Land and the population concerned.
- (2) The implementation thereof shall require a federal law.

Article 29a

- (1) The Federation may by law transfer sovereign powers to international institutions.
- (2) In order to preserve peace, the Federation may join a system of mutual collective security; in doing so it will consent to those limitations of its sovereign powers which will bring about and secure a peaceful and lasting order in Europe and between the nations of the world.

(3) For the settlement of international disputes, the Federation will join a general, comprehensive, obligatory system of international arbitration. The decisions taken by these courts of arbitration shall be directly binding.

Article 29

The general rules of international law shall form part of the federal constitutional law and create rights and duties directly for all the inhabitants of the federal territory.

Article 29b

Activities tending to disturb or undertaken with the intention of disturbing the peaceful relations between nations, and especially preparing for aggressive war, shall be unconstitutional. They shall be made subject to punishment.

Article 29c

(1) Weapons designed for warfare may be manufactured, transported or marketed only with the permission of the Federal Government.

(2) Details shall be regulated by a Federal law.

Article 29/1

All German merchantmen shall form a unified merchant marine.

Article 27

(1) The constitutional order in the Laender must conform to the principles of the republican, democratic and social state based on the rule of law (Rechtsstaat) within the meaning of this Basic Law. In the Laender, Kreise and Gemeinden the people must have a representative assembly resulting from universal, direct, free, equal and secret elections. In Gemeinden, the Parish Meeting may take the place of an elected body.

(2) The Gemeinden must be guaranteed the right to regulate under their own responsibility all the affairs of the local community in accordance with the laws. The Gemeindeverbände also shall have the right of self-government within the limits of their legal sphere of functions and in accordance with the laws.

(3) The Federation shall guarantee that the constitutional order of the Laender shall correspond to the fundamental rights and the provisions of paragraphs (1) and (2).

Article 25

(1) The federal territory shall be reorganized by a federal law with due regard to regional unity, historical and cultural connections, economic expediency and social structure. The reorganization shall create Laender which by their size and potentiality are able to fulfil efficiently the function incumbent upon them.

(2) In areas which, in the reorganisation of Laender after 8th May 1945, joined another Land without plebiscite, a certain change in the decision made concerning allegiance to a Land may be demanded by popular initiative within one year after the coming into force of the Basic Law. The popular initiative shall require the consent of one-tenth of the population qualified to vote in Landtag elections. Should the popular initiative take place, the Federal Government must, in the law regarding the reorganisation, make provisions regarding the Land allegiance of the area.

(3) After being passed, the law shall be submitted to a plebiscite in the territories which it is intended should join another Land and in the cases envisaged in para (2) also in the territories which it is not intended should join another Land. In each territory only that part of the law

shall be voted upon which concerns such territory.

(4) The law shall be adopted if the population of all the territories affected approves. If the population does not approve it in all the territories affected, it shall be re-introduced in the Volkstag. After being passed again the law shall be submitted as a whole to a plebiscite in the whole federal territory.

(5) In a plebiscite according to para (2) or (3), the majority of the votes cast shall decide.

(6) In disputes concerning the settlement of property claims arising from the reorganization of the federal territory, the Federal Constitutional Court shall decide.

(7) The procedure shall be regulated by a federal law, which must be introduced by the Federal Government immediately after assuming office. It must also, without delay after assuming office or after the incorporation of a new Land, initiate the reorganization.

(8) The reorganization shall be carried out before the expiration of three years after promulgation of the Basic Law or, should it be necessary in consequence of the accession of another part of Germany, within two years after such accession.

Article 26

(1) The territories of the Laender may be altered by federal law. Article 25 (1) shall apply appropriately.

(2) If one-third of the enfranchised population of an administrative district of at least the size of a Kreis demands an alteration of Land allegiance, the Federal Government must bring in a law corresponding to this demand. Otherwise a law making territorial alterations may be brought in only if there is an over-riding federal interest.

(3) If the Laender concerned consent, an ordinary federal law shall suffice.

(4) In this case the law shall be submitted to a plebiscite in the territory whose Land allegiance is to be altered, and the majority of the votes cast shall decide.

(5) If the demand of the population for an alteration of the Land allegiance in accordance with para (2), has as its object the creation of a new Land, then this motion must first be submitted to a plebiscite in the territory whose Land allegiance is to be altered. The motion shall be regarded as accepted if the majority of the eligible voters approves. For its acceptance the federal law shall require in this case the majority necessary for an amendment to the Basic Law. A further plebiscite shall not take place.

(6) In disputes relating to the settlement of property claims arising from territorial alterations of the Laender, the Federal Constitutional Court shall decide.

(7) Details shall be regulated by a federal law.

(8) Boundary rectifications shall be undertaken by state treaty between the Laender concerned.

III - FEDERATION AND LAENDER

Article 30

The exercise of the powers of the state and the performance of state functions shall be the concern of the Laender, unless this Basic Law prescribes or permits otherwise.

Article 31

Federal law shall supersede Land law.

Article 27a

Every German shall have in each Land the same rights and duties as the citizens of the Land itself.

Article 41

(1) The maintenance of relations with foreign states shall be the affair of the Federation.

(2) Insofar as the Laender are competent to legislate, they may conclude treaties with foreign states.

(3) For initiating treaty negotiations and for concluding a treaty with a foreign state the Laender shall require the approval of the Federal Government.

(4) Before the conclusion of a treaty affecting the special conditions of a Land, the Federal Government must sufficiently early consult the Land.

Article 40

The Laender may enter into agreements with other German Laender concerning subjects within their field of competence.

Article 96

The Governments of the Laender may establish agencies at the seat of the Federal Government.

Article 27b

(1) Every German shall have equal access to any public office in accordance with his suitability, ability and professional achievements.

(2) Permanent functions in the exercise of public authority shall normally be assigned to professional officials (Berufsbeante) who are in a status of service and loyalty under public law.

(3) The traditional principles concerning the legal status of professional officials (Berufsbeante) shall be guiding for the legislative regulation.

Article 27c

If any person, in exercising the duties of a public office entrusted to him, violates his official obligation towards a third party, liability shall in principle rest with the state for his employing authority. In the case of wilful intent or gross negligence, the right of recourse shall be reserved. In respect to the claim for damages and in respect to the right of recourse, appeal to the ordinary courts must not be excluded.

Article 39

- (1) All federal and Laender authorities shall render each other mutual legal and official assistance; also in the execution of compulsory measures under civil and administrative law (Zwangsvollstreckungs - und Verwaltungszwangsverfahren).
- (2) Public documents and certificates issued in one Land shall be recognized throughout the federal territory.

Article 43

In the central federal offices civil servants from all Laender shall be employed in equitable ratio. Persons employed in the other federal offices shall normally be selected from the Land in which they are employed.

Article 118b

- (1) If a Land fails to fulfil its obligations under the Basic Law or any other federal law, the Federal Government may, with the approval of the Bundesrat, take the necessary measures to force the Land by ways of federal compulsion to fulfil its duties. The approval of the Bundesrat shall require the majority of its votes.
- (2) In order to carry out federal compulsion, the Federal Government or its representative shall have the right to give orders to all Laender and their authorities.

IV - VOLKSTAG

Article 45

- (1) The deputies of the Volkstag shall be elected by the people in universal, equal, direct and secret elections.
- (2) Any person who has reached the age of 21 years shall be eligible to vote, and any person who has reached the age of 25 years shall be eligible for election.
- (3) Details shall be determined by a federal law.

Article 47

The deputies shall be representatives of the whole people. They shall not be bound to orders and instructions and shall be subject only to their conscience.

Article 48

- (1) The Volkstag shall be elected for a term of four years. The electoral period of the Volkstag shall end four years after its first assembly. The new election shall take place in the last three months of the electoral period.
- (2) The electoral period of the Volkstag shall end prematurely if it is dissolved in accordance with Article 87 or Article 90a. In this case the Volkstag shall be newly elected not later than sixty days after the dissolution.

Article 49

The Volkstag shall meet not later than thirty days after the election, nevertheless not before the end of the electoral period of the previous Volkstag.

Article 50

- (1) The Volkstag shall elect its own President, his deputies and its clerks. It shall draw up its own Standing Orders (Rules of Procedure).
- (2) The President shall have charge of, and exercise police power in, the Volkstag building. No search or seizure may take place without his permission in the precincts of the Volkstag.
- (3) The administration of the Volkstag shall be supervised by the President. He shall dispose of its income and expenditure; he shall represent the Federation in all legal affairs and legal suits of the Volkstag.

Article 51

- (1) The review of elections shall be the responsibility of the Volkstag. It shall decide also whether a deputy has lost his membership in the Volkstag.
- (2) An appeal to the Federal Constitutional Court against a decision of the Volkstag shall be admissible.
- (3) Details shall be regulated by a federal law.

Article 53

- (1) Meetings of the Volkstag shall be public. Upon motion of

of one-tenth of its members or upon motion of the Federal Government the public may, by a two-thirds majority, be excluded. A decision on the motion will be made in a closed meeting.

(2) Accurate reports of the public meetings of the Volkstag and of its committees shall be privileged.

Article 54

(1) Decisions of the Volkstag shall require the majority of votes cast unless the Basic Law determines otherwise. Standing Orders (Rules of Procedure) may admit exceptions in the case of elections to be held by the Volkstag.

(2) The quorum shall be determined by Standing Orders (Rules of Procedure).

Article 55

(1) The Volkstag and its committees may demand the presence of any member of the Federal Government.

(2) The members of the Bundesrat and of the Federal Government as well as the persons commissioned by them shall have access to all meetings of the Volkstag and its committees. They must be heard at any time.

Article 56

(1) The Volkstag shall determine the closure and resumption of its sessions.

(2) The President may convene the Volkstag at an earlier date. He shall be obliged to do so if the Federal President, the Federal Chancellor or one-third of the members so demand.

Article 57

(1) The Volkstag shall have the right and, upon the motion of one-fourth of its members, the obligation to set up an investigating committee.

(2) The investigating committee shall take the necessary evidence in public proceedings. The public may be excluded by the investigating committee by a two-thirds majority.

(3) The courts and administrative authorities shall be obliged to comply with a request of the committee for the submission of documents and legal assistance.

(4) The provisions relating to criminal procedure shall apply appropriately to the investigations of the committee and of the authorities requested by it to do so. The secrecy of the post and telecommunications shall remain unaffected.

(5) The activity of the investigating committee shall end at the latest with the expiration of the electoral period.

(6) The decision of the investigating committees shall not be subject to judicial review. The courts shall be free to evaluate and judge the facts on which the investigation is based.

Article 58

(1) The Volkstag shall appoint a Standing Committee, which shall safeguard the rights of the Volkstag, vis-a-vis the Federal Government in the interval between two electoral periods. The

Standing Committee shall also have the rights of an investigating committee.

(2) Wider powers, in particular the right to legislate, to elect the Federal Chancellor and to impeach the Federal President, shall not be within the province of the Standing Committee.

Article 59

A deputy may at no time be subject to legal or disciplinary action, or otherwise be called to account outside the Volkstag because of his vote or any utterance in the Volkstag or in one of its committees. This shall not apply in the case of defamatory insults.

Article 60

(1) A deputy may be called to account or arrested for a punishable offence only with the permission of the Volkstag, unless he be apprehended while committing the offence or in the course of the following day.

(2) Furthermore, the permission of the Volkstag shall be required in respect of any other restriction of the personal freedom of a deputy, for the initiating of proceedings against a deputy in accordance with Article 20b.

(3) Any criminal proceedings and any proceedings in accordance with Article 20b against a deputy, any detention and any other restriction of his personal freedom shall be suspended upon the demand of the Volkstag.

Article 61

Deputies shall be entitled to refuse to give evidence concerning persons who have entrusted facts to them in their capacity as deputies, or to whom they in this capacity have entrusted facts, as well as concerning those facts themselves. Insofar as this right of refusal to give evidence extends, the seizure of documents shall be inadmissible.

Article 62

(1) No one may be prevented from assuming or exercising the office of a deputy. Notice of dismissal or dismissal for this reason shall be inadmissible.

(2) Any person seeking election to the Volkstag shall have a claim to the leave necessary for his election campaign.

Article 63

Deputies shall have a claim to adequate remuneration. They shall have the right to free travel in all publicly owned transport. Details shall be regulated by a federal law.

Article 64

Articles 59, 60, 61, 62, para (1), and 63 shall apply to the members of the Presidium and the Standing Committee as well as to their chief deputies also in the interval between two electoral periods.

V - BUNDESRAT

Article 65

The Laender shall participate through the medium of the Bundesrat in the legislation and the administration of the Federation.

Article 66

- (1) The Bundesrat shall consist of members of the Governments of the Laender which shall appoint and recall them. They may be represented by other members of their Governments.
- (2) Each Land shall have three votes; Laender with more than two million inhabitants shall have four, Laender with more than six million inhabitants shall have five votes.
- (3) Every Land may delegate as many members as it has votes. The votes of each Land may be given only as a block vote and only by members present or their representatives.

Article 73

- (1) The members of the Federal Government shall have the right, and on demand the obligation, to participate in the debates of the Bundesrat and its committees. They must be heard at any time during the deliberations.
- (2) The Bundesrat shall be kept currently informed by the Federal Chancellor and the Federal Ministers on the conduct of federal affairs. The Federal Ministers shall call in the competent committee of the Bundesrat for deliberation of important business.

Article 68

The Bundesrat shall elect its President from among its members. The President shall be elected for one year. His re-election shall be admissible.

Article 69

The President shall convene the Bundesrat. He must convene it if the representatives of two Laender or the Federal Government so demand.

Article 70

- (1) The Bundesrat shall draw up its Standing Orders (Rules of Procedure).
- (2) It shall meet in public. In accordance with the Standing Orders (Rules of Procedure), it may exclude the public for the deliberation of certain business.
- (3) It shall form committees to which other members or representatives of the Governments of the Laender may belong.

VI - THE FEDERAL PRESIDENT

Article 75

- (1) The Federal President shall be elected without discussion by the Federal Convention.
- (2) The Federal Convention shall consist of the members of the Volkstag and an equal number of members elected by the popular representative bodies of the Laender according to the principles of proportional representation.
- (3) The Federal Convention shall meet not later than thirty days before the expiration of the term of office of the Federal President, in the case of premature termination not later than thirty days after this date. It shall be convened by the President of the Volkstag.
- (4) After the expiration of the electoral period the time-limit of para (3), sentence 1, shall begin with the first meeting of the Volkstag.
- (5) The person who has received the votes of the majority of the members of the Federal Convention shall be elected. If such majority is not obtained by any candidate in two ballots a third ballot shall take place in which the person who receives most votes shall be elected.
- (6) Details shall be regulated by a federal law.

Article 75a - 1

Every German who is eligible to vote in elections for the Volkstag and has reached the age of 40 years shall be eligible for election.

Article 76

The term of office of the Federal President shall be five years. Immediate re-election shall be admissible only once.

Article 77

- (1) The Federal President may be a member neither of the Government nor of a legislative body of the Federation or a Land.
- (2) The Federal President may not hold any other salaried office, carry on a trade or practice a profession, or belong to the management or supervisory board of a profit-making enterprise.

Article 78

On assuming office the Federal President shall take the following oath in the presence of the assembled members of the Volkstag and the Bundesrat:

"I swear that I shall dedicate my strength to the wellbeing of the German people, enhance what is to its advantage, ward off what might harm it, uphold and defend the Basic Law and the laws of the Federation, fulfil my duties conscientiously and do justice to every man. So help me God."

The oath may also be taken without a religious asseveration.

Article 79

- (1) In the event of the inability of the Federal President to perform the duties of his office or in the event of a premature vacancy in the office, the functions of the Federal President shall be exercised by the President of the Constitutional Court.

(2) In the event of a premature vacancy in the office, the new election shall take place within thirty days.

(3) If the Presidents of the Volkstag and the Bundesrat, together with the Federal Chancellor, state that the inability of the Federal President has lasted longer than six months or will probably last longer than six months, the Federal Convention shall be convened within thirty days. If the Federal Convention confirms the statement, it has to undertake the new election.

Article 80

Orders of the Federal President shall require for their validity the counter-signature of the Federal Chancellor or the competent Federal Minister. This shall not apply to the appointment and dismissal of the Federal Chancellor and to the dissolution of the Volkstag in accordance with Article 87.

Article 81

(1) The Federal President shall represent the Federation in matters concerning international law. He shall conclude the treaties with foreign states on behalf of the Federation. He shall accredit and receive the envoys.

(2) Treaties with foreign states which deal with the political relations of the Federation to foreign states or refer to matters of federal legislation, shall require approval in the form of a federal law. For administrative agreements the provisions concerning the federal administration shall apply accordingly.

Article 82

The Federal President shall appoint and dismiss the federal judges and the federal officials unless otherwise determined by law. He may delegate this power to other authorities.

Article 83

The Federal President shall exercise the right of pardon on behalf of the Federation in individual cases. He may delegate this right to other authorities. Federal amnesties shall require a federal law.

Article 84

Article 60 shall apply appropriately to the Federal President.

Article 85

(1) The Volkstag or the Bundesrat may impeach the Federal President before the Federal Constitutional Court on account of wilful violation of the Basic Law or any other federal law. The motion for impeachment must be brought in by at least one-quarter of the members of the Volkstag or one-quarter of the votes of the Bundesrat. The decision to impeach shall require the majority of two-thirds of the members of the Volkstag or of two-thirds of the votes of the Bundesrat. The prosecution shall be conducted by a person commissioned by the impeaching body.

(2) If the Federal Constitutional Court finds that the Federal President is guilty of a wilful violation of the Basic Law or of any other federal law, it may declare him to have forfeited his office. After the institution of impeachment proceedings the Federal Constitutional Court may, by interim order, determine that the Federal President is prevented from performing the duties of his office.

VII - THE FEDERAL GOVERNMENT

Article 86

The Federal Government shall consist of the Federal Chancellor and the Federal Ministers.

Article 87

- (1) The Federal Chancellor shall be elected without discussion by the Volkstag on the proposal of the Federal President.
- (2) The person who has received the votes of the majority of the members of the Volkstag shall be elected. He shall be appointed by the Federal President.
- (3) If the person nominated is not elected, the Volkstag may, within fourteen days after the ballot, elect a Federal Chancellor by more than one-half of its members.
- (4) If the Federal Chancellor is not elected within this time limit, a new ballot shall take place immediately in which the person who receives most votes shall be elected. If the person elected receives the votes of the majority of the members of the Volkstag the Federal President must, within 7 days after the election, appoint him. If the person elected does not obtain this majority, the Federal President must, within seven days, either appoint him or dissolve the Volkstag.

Article 89

The Federal Ministers shall be appointed and dismissed by the Federal President upon the proposal of the Federal Chancellor.

Article 89a

The Federal Chancellor and the Federal Ministers on assuming office shall take the following oath before the Bundestag:

"I swear that I will uphold and defend the Basic Law and the laws of the Federation and faithfully and conscientiously fulfil the duties of my office. So help me God."

The oath may also be taken without a religious asseveration.

Article 89b

- (1) The Federal Chancellor shall determine and assume responsibility for general policy. Within the limits of this general policy, each Federal Minister shall direct his department individually and on his own responsibility.
- (2) The Federal Chancellor shall preside over the Federal Government and conduct its business in accordance with Standing Orders (Rules of Procedure) adopted by it and approved by the Federal President. The Federal Government shall decide on differences of opinion between its members.

Article 89c

The Federal President and the Federal Ministers may not hold any other salaried office, carry on a trade or practice a profession, or belong to the management or, without the approval of the Volkstag, of the supervisory board of a profit-making enterprise.

.... - THE LEGISLATION OF THE FEDERATION

Article 35

- (1) The Federation shall have exclusive legislation on:
1. Foreign affairs;
 2. Citizenship of the Federation and the Laender;
 3. Freedom of movement, passports, immigration and emigration and extradition;
 4. Currency, money and coinage, weights and measures and regulation of time and calendar;
 5. The unity of customs and commercial territory, commercial and navigation agreements, the freedom of traffic in goods and the traffic in goods and payments with foreign countries;
 6. Federal railways and air traffic;
 7. Post and telecommunications;
 8. The legal status of persons in the employment of the Federation and of public law corporations under direct supervision of the Federal Government;
 9. Trade marks, copyright, and publishing rights;
 10. Cooperation of the Laender in the criminal police and the establishment of a Federal Office for Criminal Affairs;
 11. Statistics for federal purposes.
- (2) Insofar as the Federation has exclusive legislative competence, the Laender may legislate only if they are so empowered in a federal law.

Article 36

- (1) The Federation shall have priority in legislation on:
1. Civil law, criminal law and execution of sentences, constitution of courts, court procedure insofar as the Laender are not competent according to Article 112/2, the bar, notaries and legal advice (Rechtsberatung);
 2. Census and registry matters;
 3. Associations and assemblies, press and motion pictures;
 4. The right of sojourn and settlement of aliens;
 5. The protection of German works of art against removal abroad;
 6. Matters relating to refugees and expellees;
 7. Public welfare in its entirety;
 8. War damages and compensation (Wiedergutmachung);
 9. Provisions for war-disabled persons and surviving dependants, the welfare of former prisoners of war and the care of war graves;

10. Law relating to the economy (mining, industry, power supply, crafts, trades, commerce, banking and stock exchanges, private insurances);
 11. Labour Law, including the legal organization of enterprises, protection of workers and provision of employment as well as social insurance including unemployment insurance;
 12. The furtherance of scientific research;
 13. Expropriation in matters in which the Federation has legislative power;
 14. Transfer of land and landed property, natural resources and means of production to public ownership or to other forms of publicly controlled economy;
 15. Prevention of the abuse of economic power;
 16. Promotion of agricultural and forestry production, safeguarding of food supply, import and export of agricultural and forestry products, deep-sea and coastal fisheries and coastal preservation;
 17. Transactions in landed property, law concerning land and agricultural lease, housing, settlements and homesteads;
 18. Measures against epidemic and infectious diseases affecting humans and animals, the licensing for medical and other healing professions and the healing trade and traffic in drugs, medicines, narcotics and poisons;
 19. Protection relating to traffic in food and stimulants, as well as in necessities of life, in fodder, in agricultural and forestry seeds and seedlings, and protection of trees and plants against diseases and pests;
 20. Ocean and coastal shipping and aids to navigation, inland shipping meteorological service, ocean channels and inland waterways used for general traffic;
 21. Street traffic, motor transport and the construction and maintenance of highways used for long-distance transport;
 22. Railways other than federal railways, except mountain railways.
- (2) In these matters the Federation shall regulate only what must be uniformly regulated. The Laender shall retain the right to legislate as long and insofar as the Federation makes no use of its right to legislate.

Article 36a

The Federation shall have the right to issue general provisions concerning:

1. The legal status of persons employed in the public service of the Laender, Gemeinden and other public law corporations;
2. Hunting, protection of nature and care of the countryside;
3. Land distribution, regional planning and water conservation;
4. Matters relating to registration and identity cards.

Article 103

(1) Bills shall be introduced in the Volkstag by the Federal Government, by members of the Volkstag or by the Bundesrat.

(2) Federal Government bills shall first be submitted to the Bundesrat. The Bundesrat shall have the right to give its opinion on these bills within three weeks.

(3) Bundesrat bills shall be submitted to the Volkstag by the Federal Government, which must add a statement of its own views.

(4) The President of the Volkstag must without delay forward to the Bundesrat every bill passed by the Volkstag.

Article 104

(1) Federal laws shall be passed by the Volkstag.

(2) The Bundesrat may, within two weeks of the receipt of the adopted bill, demand that a committee composed of members of the Volkstag and Bundesrat be convened to consider the bill jointly. Should the committee propose an alteration of the adopted bill the Volkstag shall take a new decision. Details of the composition and convening of the committee and its procedure shall be laid down in Standing Orders (Rules of Procedure) to be agreed jointly by the Volkstag and the Bundesrat.

(3) After the conclusion of the procedure provided for in paragraph (2), the Bundesrat may within one week veto a law passed by the Volkstag. The time-limit for a veto shall begin with the conclusion of the procedure provided for in paragraph (2) or with the receipt of the bill as re-adopted by the Volkstag.

(4) Should the veto be adopted by the majority of the votes of the Bundesrat, it may be rejected by a decision of the majority of the members of the Volkstag. Should the Bundesrat have adopted the veto by a majority of at least two-thirds of its votes, the rejection by the Volkstag shall require a majority of two-thirds, at least of the majority of the members of the Volkstag.

Article 105

A concurrent decision of the Volkstag and the Bundesrat shall be required for federal legislation:

1. on taxes, the yield of which accrues wholly or partly to the Laender or Gemeinden (Gemeindeverbande), as well as laws by means of which new, hitherto untapped, sources of taxation are made available;
2. on the distribution of federal taxes between the Federation and the Laender (finance adjustment);
3. on the transfer of land and landed property, natural resources and means of production to public ownership or to other forms of publicly controlled economy;
4. on the co-operation of the Laender in the criminal police and the establishment of a Federal Office for Criminal Affairs;
5. on power supply;

- 5a. by which provisions regarding the establishment of authorities, administrative procedure, administrative court procedure in the Laender are issued (Article 112/2, paragraph 1);
6. by which, in cases permitted by this Basic Law, independent central federal authorities are established (Article 116, paragraph 3, sentence 1);
7. by which, in cases permitted by this Basic Law, new public law corporations and institutions subject to direct federal supervision are established, dissolved or combined (Article 116, para 3, sentence 2);
8. by which, in cases permitted by this Basic Law, the Federal Government is granted the power to give individual instructions (Article 112/2, paragraph 5);
9. by which the existing territory of a Land is affected (Article 26);
10. by which general provisions relating to the legal status of persons employed in the public service of the Laender, Gemeinden and public law corporations are issued (Article 36a, item 1);
11. by which general provisions relating to matters concerning registration and identity cards are issued (Article 36a, item 4).

(2) The laws shall be adopted first in the Volkstag and subsequently in the Bundesrat.

(3) In the sphere of legislation within the meaning of paragraph 1, a permanent committee shall be formed from members of the Volkstag and Bundesrat which shall be convened on a motion of the Volkstag or the Bundesrat or on the order of its chairman. Its powers, composition and procedure shall be laid down in Standing Orders (Rules of Procedure) to be agreed jointly by the Volkstag and the Bundesrat.

Article 105a

a law passed by the Volkstag shall be enacted if the Bundesrat has approved the law or has not vetoed it within the statutory time-limit or has withdrawn its veto, or if the veto has been overridden by the Volkstag.

Article 106

(1) The Basic Law may be amended only by a law which expressly alters or adds to the text of the Basic Law.

(2) Such a law shall require the approval of two-thirds of the members of the Volkstag and two-thirds of the votes of the Bundesrat.

(3) A law by which the organization of the Federation into Laender and the basic co-operation of the Laender in legislation and administration (Article 65) are affected shall require the approval of a majority of four-fifths of the votes of the Bundesrat.

Article 108

The basic principles laid down in Articles 1 and 21 of this Basic Law shall be excluded from amendments to the constitution according to Article 106.

Article 108a

(1) By means of a law the Federal Government, a Federal Minister or the Land Governments may be authorized to issue orders (Rechtsverordnungen). The contents, purpose and scope of such authorization shall be determined in the law. The legal basis must be cited in the order. If the authorization may be delegated further this shall require authorization through an order (Rechtsverordnung).

(2) The approval of the Bundesrat shall be required for orders (Rechtsverordnungen) of the Federal Government or a Federal Minister concerning principles and fees for the use of the facilities of the Federal railways and post and telecommunications, concerning the construction, operation and traffic of railways, as well as those issued on the basis of federal laws within the meaning of Article 105 and of federal laws executed by the Länder under the mandate of the Federation or as their own concern.

Article 111

(1) If one of the legislative bodies is prevented by "force majeure" from fulfilling its functions, the Federal Government may, in order to avert an imminent danger to public safety and order, with the approval of the Presidents of the Volkstag and the Bundesrat, issue, within the limits of federal competence, emergency decrees having the force of law.

(2) The emergency decrees shall become invalid if one of the two bodies demands their repeal or if they are not confirmed within four weeks by the Volkstag and the Bundesrat. If, because of force majeure, the Volkstag and Bundesrat are unable to give such confirmation, the emergency decrees may be extended in the same way for four weeks on each occasion.

(3) By an emergency decree, only the basic rights concerning the freedom of the press (Article 6), freedom of assembly (Article 8), freedom of association (Article 9) and the secrecy of telecommunications (Article 10) may be temporarily suspended or restricted. In the decree, the basic rights thus suspended or restricted must be designated by name and by the numbers of the articles concerned. Amendments of the Basic Law by emergency decrees shall be inadmissible.

(4) For so long as fundamental rights are suspended in pursuance of paragraph 3 elections to political bodies and plebiscites may not take place in the entire federal territory. Electoral periods shall be extended accordingly.

(5) The decrees and decisions provided for in this Article must be published in the Federal Legal Gazette. If this is not possible, any other form of general announcement, especially by broadcast, shall be sufficient; publication in the Federal Legal Gazette must follow without delay.

Article 111z

(1) If in the case of Article 90a a dissolution of the Volkstag does not take place and if the Volkstag rejects a bill declared to be urgent by the Federal Government, the Federal Government may bring in the motion in the Bundesrat to declare the existence of a state of legislative emergency for this bill.

(2) If the Bundesrat agrees, the Federal President shall decide whether for this bill the state of legislative emergency shall be proclaimed.

(3) If the Federal Government re-submits this bill to the Volkstag with the notification of the state of legislative emergency, and if the Volkstag again rejects the bill or passes it in a version stated by the Federal Government to be unacceptable, the bill shall be deemed adopted as soon as the Bundesrat has approved the law. The same shall apply if the bill has not been passed by the Volkstag within four weeks after its re-submission. The law shall become invalid not later than twelve months after its promulgation.

(4) The state of legislative emergency may be claimed for bills of the same Federal Government only within a period of six months after its first proclamation.

(5) The basic Law may neither be amended nor wholly or partially be repealed or suspended by legislation enacted within the terms of a state of legislative emergency.

Article 111a

The power to participate in federal legislation may not be delegated, not even to a committee formed by a federal organ.

Article 111b

(1) Laws enacted according to the provisions of this basic Law shall be engrossed by the Federal President with the counter-signature of the Federal Chancellor and promulgated in the Federal Legal Gazette. Orders (Rechtsverordnungen) shall be signed by the issuing authority and published in the Federal Legal Gazette or the Federal Bulletin.

(2) Each law and each order (Rechtsverordnungen) shall specify the date of its coming into force. In the absence of such a provision, they shall come into force on the fourteenth day after the end of the day on which the Federal Legal Gazette has been issued.

X - EXECUTION OF FEDERAL LAWS AND FEDERAL ADMINISTRATION

Article 112/1

The Laender shall execute the Federal laws as their own concern insofar as this Basic Law does not determine or permit otherwise.

Article 112/2

- (1) If the Laender execute the federal laws as their own concern, they shall regulate the establishment of the authorities, the administrative procedure and the procedure of the administrative courts, insofar as not otherwise determined by federal legislation.
- (2) The Federal Government may, with the approval of the Bundesrat, issue general administrative provisions.
- (3) The Federal Government shall exercise supervision to ensure that federal laws are executed by the Laender in accordance with law. For the purpose the Federal Government may send representatives to the central Land authorities and with their approval, and in the case of its refusal with the approval of the Bundesrat, also to the subordinate authorities.
- (4) Should deficiencies established by the Federal Government in the execution of federal laws in the Laender not be overcome, then, on application by the Federal Government or the Land concerned, the Bundesrat shall decide whether the Land has infringed law (das Recht). Against the decision of the Bundesrat appeal to the Federal Constitutional Court shall be admissible.
- (5) The Federal Government may by federal legislation be granted in special cases the power to give individual instructions for matters in which the Federation has legislative competence. These instructions shall, except in the case of imminent danger, be directed to the central Land authority.

Article 113

- (1) Where the execution of federal laws is delegated to the Laender by the Federation, the establishment of the authorities shall remain a concern of the Laender within the limits of the federal laws.
- (2) The Federal Government may issue, with the approval of the Bundesrat, general administrative provisions. The Federal Government may issue provisions relating to the uniform training of officials and employees. The heads of the authorities at middle level shall be appointed by agreement with the Federal Government.
- (3) The Land authorities shall be subordinate to the directives of the competent highest federal authorities. Except in case of imminent danger, the directives shall be directed to the central Land authorities. Execution of the directive shall be ensured by the central Land authorities.
- (4) Federal supervision shall extend to the legality and suitability of the manner of execution. The Federal Government may for this purpose demand submission of reports and documents, and send representatives to all authorities.

Article 115

If the Federation executes the laws by direct federal administration or by public law corporations or institutions directly supervised by the Federation, the Federal Government shall insofar as the law does not prescribe details issue general administrative provisions. It shall regulate, insofar as is not otherwise determined by the law, the establishment of the authorities with the approval of the Bundesrat.

Article 116

(1) Foreign Service, the federal finance administration, federal railways, the federal postal services and, in accordance with the provisions of Article 118, the administration of the federal waterways and shipping shall be conducted by a direct federal administration with their own lower-level administrative offices.

(2) Public law corporations directly supervised by the Federation shall be those carriers of social insurance whose sphere of competence transcends the territory of a Land.

(3) In addition, independent central federal authorities and new public law corporations and institutions directly supervised by the Federation may be established by federal legislation for matters on which the Federation has the power to legislate. Should the Federation acquire new functions in matters for which it has legislative competence, federal authorities at middle and lower levels may, in case of urgent need, be established with the approval of the majority of the members of the Volkstag and of two-thirds of the votes of the Bundesrat.

Article 116a

The Federation shall establish a bank of currency and issue as federal bank.

Article 117

(1) The federal railways, as well as the postal and telecommunication services, shall be administered as uniform federal communication services.

(2) The federal railways and postal administrations shall each appoint a permanent representative to the governments of the Laender. If the federal railways should be transformed into a form of administration other than a federal administration, this regulation shall apply appropriately.

(3) Details shall be regulated by federal legislation.

Article 118

(1) The Federation shall be the owner of the former Reich waterways.

(2) The Federation shall administer the federal waterways through its own authorities. It shall exercise those state functions relating to inland shipping extending beyond the territory of a Land and the functions of ocean-going shipping which are conferred on it by law. The Federation may delegate the administration of federal waterways, insofar as they lie within the territory of a Land, to this Land, upon its request. Should a waterway touch the territories of several Laender, the Federation may delegate the administration to that Land agreed upon by the Laender concerned.

(3) In the administration, development and new construction of waterways, the requirements of soil and water conservation shall be observed in agreement with the Laender.

(4) For participation in matters concerning waterways, committees shall be established at the authorities of the federal waterways administration in accordance with detailed instructions of the Federal Government and with the approval of the Bundesrat.

(5) Details shall be regulated by a federal law.

Article 118a

(1) The Federation shall be the owner of the former Reich Autobahnen and Reich highways.

(2) The Laender, or such self-governing corporations under public law as have been given that function in accordance with Land law, shall administer the federal Autobahnen and other federal highways used for long-distance traffic under the mandate of the Federation.

(3) At the request of a Land, the Federation may take over into direct federal administration federal motor highways and other federal highways used for long-distance traffic, insofar as they lie within the territory of this Land.

Article 118c

(1) In order to avert an imminent danger to the existence or the free and democratic basic order of the Federation or a Land, a Land may call in the police forces of other Laender.

(2) If the Land in which the danger is imminent is not itself prepared or in a position to combat the danger, the Federal Government may place the police in that Land or the police forces of other Laender under its instructions. The order (Anordnung) shall be rescinded after the danger has been overcome, otherwise at any time on demand by the Bundesrat.

XI - FINANCE

Article 122

To cover the expenditure of the Federation, in particular:

1. the costs of federal administration,
2. federal outlay on occupation costs and other external and internal war-induced burdens,
3. federal grants towards the burdens of social insurance, including unemployment insurance and public assistance for the unemployed,

the following revenues shall serve:

1. the statutory contributions of the federal railways and the federal postal services, the profits of federally owned enterprises, the yields from participations of the Federation, its share in the profits of the federal currency bank and bank of issue and the yields from other federal property,
2. the revenues of the federal administration,
3. the revenue from customs and the taxes regulated by federal legislation (federal taxes), insofar as it does not accrue to the Laender and Gemeinden, and the yields from financial monopolies.

Article 122a

The Federation shall have exclusive legislation in customs and financial monopolies, and priority legislation on the following taxes (federal taxes):

1. excise taxes and taxes on transactions, with the exception of taxes with localized application, in particular the taxes on real estate acquisition, incremental value and on fire protection,
2. the taxes on income, property, inheritance and gifts (or donations),
3. "Realsteuern" (taxes on real estate and on businesses), with the exception of the fixing of tax rates.

Article 122b

(1) The distribution of federal taxes between the Federation and the Laender shall be carried out according to the functions which are incumbent on the Federation on the one hand and on the Laender and Gemeinden (Gemeindeverbaende) on the other, in such a way that the Laender are given a legal claim on the allocation of certain federal taxes or a share in certain federal taxes.

(2) Details shall be regulated by the Finance Adjustment Act (Finanzausgleichsgesetz). It must take into account an appropriate equalization of burdens (Lastenausgleich).

Article 123

(1) The federal taxes shall be administered by federal finance authorities. The structure of the federal finance authorities and the finance courts and the procedure to be applied by them shall be regulated by federal law. The heads of the finance and customs authorities in the Laender shall be appointed by agreement with the governments of the Laender involved.

(2) The Land taxes shall be administered by Land finance authorities. The Laender may transfer this administration and the discharge of other Land financial business to the federal finance authorities in the Laender; the federal finance authorities shall to this extent be subject to the instructions of the central Land finance authorities.

(3) The raising of the "Realsteuern" shall be regulated by Land legislation.

Article 123a

The Federation and the Laender shall be self-supporting and independent of each other in their budget economy.

Article 124

(1) All revenues and expenditures of the Federation must be estimated for each fiscal year and included in the budget.

(2) The budget shall be established by law before the commencement of the fiscal year. Revenue and expenditure must be balanced. Expenditures shall as a rule be approved for one year; they may in special cases be approved for a longer period. Otherwise the federal budget law may contain no provisions which extend beyond the fiscal year or which do not concern the revenues and expenditures of the Federation or its administration.

(3) The assets and liabilities shall be indicated in an appendix to the budget.

(4) In the case of federal commercial enterprises, only the final result, and not the detailed revenues and expenditures, need be included in the budget.

Article 124a

(1) If by the end of a fiscal year the budget for the following year has not been established by law, the Federal Government shall, until such a law comes into force, be empowered to effect such payments as are necessary:

- (a) to maintain legally established institutions and to carry out legally determined measures;
- (b) to meet legally established obligations of the Federation;
- (c) to continue building projects, procurements and other services or to grant further subsidies for these purposes insofar as funds have already been approved by the budget of a previous year.

(2) Insofar as revenues from taxes, imports and other sources based on special legislation, or working capital reserves, do not cover the expenditures under para 1 the Federal Government may realize by way of credits the funds necessary to conduct current operations up to one-fourth of the final sum contained in the previous budget.

Article 124b

Expenditure exceeding the budget and any extraordinary expenditure shall require the approval of the Federal Minister of Finance. It may only be given in case of an unforeseen and irrefutable necessity.

Article 124c

Decision of the Volkstag and Bundesrat, which increase the budget expenditure proposed by the Federal Government or include, or imply for the future, new expenditure, shall require the approval of the Federal Government.

Article 125

The Federal Minister of Finance must present to the Volkstag and the Bundesrat an annual statement of all revenues and expenditures and of assets and liabilities. The audit thereof shall be carried out by an Audit Office (Rechnungshof) the members of which shall have judicial independence. In order to secure a discharge for the Federal Government, the general statement of account and a survey of the assets and liabilities shall be submitted to the Volkstag and the Bundesrat in the course of the next fiscal year, together with the observations of the Audit Office. The auditing of accounts shall be regulated by federal legislation.

Article 126

By way of credits, funds may be obtained only in the case of extraordinary need and as a rule only for expenditure for productive purposes and only on the basis of a federal law. The granting of credits and provision of securities as a charge on the Federation, the effect of which extends beyond the fiscal year, may be undertaken only on the basis of a federal law. The amount of the credits or the extent of the obligation for which the Federation assumes liability must be determined in the law.

VIII - COURTS AND ADMINISTRATION OF JUSTICE

Article 128

Judicial authority shall be invested in the judges; it shall be exercised by the Federal Constitutional Court, by the Supreme Federal Court, by the federal courts provided for in this Basic Law and by the courts of the Laender.

Article 128 - 1

(1) The Federal Constitutional Court shall decide:

1. on the interpretation of this Basic Law in the event of disputes concerning the extent of the rights and duties of a supreme federal agency or of other participants accorded independent rights by this Basic Law or in the Standing Orders (Rules of Procedure) of a supreme federal agency;
2. in cases of differences of opinion or doubts on the formal and material compatibility of federal law or Land law with this Basic Law, on the compatibility of Land law with some other federal law, on the application of the Federal Government, of a Land Government or of one-third of the members of the Volkstag;
3. in cases of differences of opinion on the rights and duties of the Federation and the Laender, particularly in the execution of federal law by the Laender, and in the exercise of federal supervision;
4. on other public law disputes between the Federation and the Laender, between different Laender or within a Land, insofar as appeal to another court is not provided for;
5. in all other cases provided for in this Basic Law.

(2) Furthermore the Federal Constitutional Court shall act in cases otherwise assigned to it by federal legislation.

Article 128 - 2

(1) The Federal Constitutional Court may issue interim orders.

(2) A federal law shall regulate the procedure in the Federal Constitutional Court and shall lay down in which cases its decisions shall have the force of law.

Article 128 - 3

(1) The Federal Constitutional Court shall consist of federal judges and other members. The members of the Federal Constitutional Court shall be elected half by the Volkstag and half by the Bundesrat.

(2) The President and the chairmen of the Senates shall be appointed from the members of the Federal Constitutional Court by the Federal President on the proposal of the Federal Government. They must be qualified for judicial office or the higher administrative service.

(3) The members of the Federal Constitutional Court may not belong to the Volkstag, the Bundesrat, the Federal Government or corresponding bodies of a Land.

Article 128 - 4

- (1) To preserve the unity of federal law a Supreme Federal Court shall be established.
- (2) The Supreme Federal Court shall decide as the court of final instance in cases where the decision is of fundamental importance for the uniformity of the administration of justice of the higher federal courts.
- (3) The composition, the competence and the procedure shall be regulated by a federal law.

Article 128 - 5

- (1) The judges of the Supreme Federal Court must have reached the age of 40 years.
- (2) Their appointment shall be decided jointly by the Federal Minister of Justice and a committee for the election of judges consisting of the Land Ministers of Justice and an equal number of members elected by the Volkstag.
- (3) Details shall be regulated by a federal law.

Article 129

- (1) Higher federal courts shall be established for the spheres of ordinary, administrative, finance, labour and social jurisdiction.
- (2) Article 128-5 shall apply to the judges of the higher federal courts with the proviso that the place of the Federal Minister of Justice and the Land Ministers of Justice be taken by the Ministers competent for the particular matter. Their legal status must be regulated by a special federal law.
- (3) The Federation may establish federal disciplinary courts for disciplinary proceedings against federal officials and federal judges.

Article 129 - 1

- (1) The legal position of the federal judges must be regulated by a special federal law.
- (2) If a federal judge, in his official or unofficial capacity, infringes the principles of the Basic Law or the constitutional order of a Land, the Federal Constitutional Court may, on the application of the Volkstag or the Federal Minister of Justice, declare him to have forfeited his office and may at the same time determine whether he is to be transferred to another office or placed on the retired list. In the case of wilful or grossly negligent infringement, dismissal may be decided upon.

Article 129a

- (1) The legal position of the judges in the Laender must be regulated by special Land legislation. The Federation may issue general provision.
- (2) The Laender may determine that the Land Minister of Justice shall, together with a committee for the election of judges, decide on the appointment of judges in the Laender.
- (3) The Laender may make an appropriate regulation for Land judges in accordance with Article 129-1, paragraph 2. Land law which is more far-reaching shall remain admissible.

Article 129b

By Land legislation the decision on constitutional disputes within a Land may be assigned to the Federal Constitutional Court, and the decision of first instance on matters involving the application of Land law to the higher federal courts.

Article 129c

(1) If a court considers unconstitutional a law whose validity is pertinent to its decision, proceedings must be stayed and, if a violation of a Land Constitution is involved, the decision of the Land Court competent for constitutional disputes shall be obtained, and if a violation of this Basic Law is involved, the decision of the Federal Constitutional Court shall be obtained. This shall also apply if the violation of this Basic Law by Land law or the incompatibility of a Land law with a federal law are involved.

(2) If in litigation it is doubtful whether a rule of international law forms part of federal constitutional law and whether it creates direct rights and duties for the individual (Article 29), the court shall obtain the decision of the Federal Constitutional Court.

(3) If the court of a Land in interpreting the Basic Law intends to deviate from a decision of the Federal Constitutional Court or the constitutional court of another Land, the said constitutional court must obtain the decision of the Federal Constitutional Court. If, in interpreting other federal law it intends to deviate from the decision of the Supreme Federal Court or a higher federal court, it must obtain the decision of the Supreme Federal Court.

Article 131

(1) Extraordinary courts shall be inadmissible. No one may be prevented from appearing before his lawful judge.

(2) Courts for special matters may be established only by law.

Article 131a

Note: Abolition of Death Sentence.
Decision to be taken in Plenary
Session.

Article 132

Judges shall be independent and subject only to the law.

Article 135

(1) Everyone brought before a court shall have a claim to proper legal hearing.

(2) An act may be punished only if it has been punishable in law before the act was committed..

(3) No one may be punished more than once on account of the same act in pursuance of the general criminal laws.

Article 136

(1) Only the judge shall decide on the admissibility and continued duration of a deprivation of liberty. If such deprivation is not based on the order of a judge, a court decision must be obtained without delay. The police may, on its own authority, hold no one in custody beyond the end of the day following the arrest. Details shall be regulated by legislation.

(2) Any person temporarily detained on suspicion of having committed a punishable act must, at the latest on the day following the arrest, be brought before a judge who shall inform him of the reasons for the arrest, interrogate him and give him an opportunity to raise objections. Without delay, the judge must either issue a warrant of arrest setting out the reasons therefor, or order his release.

(3) A relative of the person detained or a person enjoying his confidence must be notified forthwith of any judicial decision in respect of the ordering or the continued duration of a deprivation of liberty.

Article 137

Details relating to Articles 128, 128-1, 128-3, 128-4, 128-5, 129, 129-1 and 129c shall be regulated by federal legislation.

.... - TRANSITIONAL AND CONCLUDING PROVISIONS

Article 138b

- (1) Unless otherwise regulated by law, a German within the meaning of this Basic Law is a person who possesses German nationality or who has been accepted in the territory of the German Reich as at 31 December 1937 as a refugee or expellee of German stock or as the spouse or descendant of such person.
- (2) Former German nationals who between 30 January 1933 and 8 May 1945 were deprived of their nationality for political, racial or religious reasons, and their descendants, shall not be considered to have lost citizenship insofar as they took up residence in Germany after 8 May 1945 and have not expressed the wish to the contrary.

Article 138c - 1

No German may be refused the claims to food and clothing as generally established within a system of public rationing.

Article 138c - 2

Law which conflicts with Article 4, paragraph 2, shall remain in force until it is adjusted to this provision of the Basic Law, but not beyond 31 March 1953.

Article 138c - 3

Laws which restrict the right of freedom of movement because of the present housing shortage shall remain in force until repealed by federal law.

Article 138c - 3a

In matters relating to refugees and expellees, in particular their distribution to the Laender, the Federal Government may, with the approval of the Bundesrat, issue orders (Verordnungen) having the force of law pending a regulation by federal legislation. In special cases the Federal Government may be empowered to issue individual instructions. The instructions shall, except in case of imminent danger, be directed to the central Land authorities.

Article 138c - 4

(1) Until the Federal Adjustment Act (Bundesfinanzausgleichsgesetz) comes into force, the following regulation shall apply:

1. The Laender shall receive for themselves and their Gemeinde (Gemeindeverbände) the beer-tax, the race-betting tax, the motor vehicle tax, the property tax (with the exception of non-recurrent property taxes), the inheritance tax and "Realsteuern". Their distribution among the Laender shall be regulated by federal legislation. In the allocation of the beer-tax, the particular interests of Land Bavaria shall be taken into consideration.
2. Income and corporation taxes and turnover tax shall be common revenues of the Federation and the Laender. The shares accruing to each and the distribution among the Laender shall be determined by federal legislation.

(2) Federal laws covered by paragraph (1) shall require the approval of the Bundesrat.

(3) The final distribution of federal taxes between the Federation and the Laender and the final distribution of the yield of federal taxes between the Federation and the Laender shall, while reserving the legislative right of the Federation, take place if possible by 31 December 1955.

Article 138c - 6

The majority of the members of the Volkstag and of the Federal Convention within the meaning of the Basic Law shall be the majority of their statutory number of members.

Article 138d

(1) As from the assembly of the Volkstag, laws shall be passed exclusively by the legislative authorities recognized in this Basic Law.

(2) With effect from this date, legislative bodies and bodies acting in an advisory capacity with respect of legislation, the jurisdiction of which ends in accordance with paragraph 1, shall be dissolved.

Article 139

(1) Law existing before the assembly of the Volkstag shall remain in force, insofar as it does not conflict with the Basic Law.

(2) The state treaties concluded by the German Reich concerning matters for which, according to this Basic Law, Land legislation is competent, shall remain in force if they are valid and continue to be valid according to general basic principles of law, while reserving all the rights and objections of those concerned, until new state treaties shall have been concluded by the authorities made competent to do so by this Basic Law or until their termination otherwise on the grounds of the provisions they contain.

Article 139a

Law concerning matters within the exclusive legislative competence of the Federation (Articles 35 and 122a) shall become federal law within the area of its application.

Article 139b

Law concerning matters of federal priority legislation (Articles 36 and 122a) shall become federal law within the area of its application, and within the limits of Articles 36 and 122a.

1. insofar as it is uniformly valid within one or more zones of Occupation,

2. insofar as it concerns law by which former Reich law has been amended since 8 May 1945.

Article 139ba

Divergencies of opinion on the compatibility of law specified in Article 139 with this Basic Law and on the continued validity of law as federal law in accordance with the provisions of Articles 139a and 139b shall be decided by the Federal Constitutional Court.

Article 139c

Within one year after promulgation of this Basic Law the Federal Government may, with the approval of the Governments of the Laender concerned, extend law of the Bizonal Economic Administration, which continues in force as federal law according to Articles 139a and b, to the Laender Baden, Greater Berlin, Rhineland-Palatinate and Wuertemberg-Hohenzollern.

Article 139e

Insofar as in accordance with still valid law, powers to give instructions within the meaning of Article 112-2, paragraph 5, still exist, these shall remain in force pending some other legislative regulation.

Article 141

(1) Insofar as legal provisions which continue in force as federal law contain an authorization to issue orders (Rechtsverordnungen) or general administrative provisions and to perform administrative acts, this authorization shall pass to the authorities now competent for the subject matter. In doubtful cases the Federal Government shall decide in consultation with the Bundesrat; the decision must be published.

(2) Insofar as legal provisions which continue in force as Land law, contain such an authorization, it shall be exercised by the authorities competent according to Land law.

(3) Insofar as legal provisions within the meaning of paragraphs 1 and 2 authorize the alteration or amplification or the issue of legal provisions instead of laws, these authorizations shall lapse.

(4) The provisions of paragraphs 1 and 2 shall apply appropriately insofar as legal provisions refer to regulations no longer valid or to institutions no longer in existence.

Article 143a

(1) Administrative organs and other institutions serving the public administration or administration of justice, which are not based on Land law or treaties between Laender, as well as works agreements of the South West German railways and the administrative council for the post and telecommunications service of the French Zone of Occupation shall be under the Federal Government. The latter shall, with the approval of the Bundesrat, regulate the transfer, dissolution, or liquidation (of such bodies).

(2) The highest disciplinary authority for the personnel of these administrations and establishments shall be the competent federal Minister.

(3) Public law corporations and institutions directly supervised by a Land and not based on treaties between Laender, shall be under the supervision of the competent central federal authority.

Article 143c - 1

The legal status of persons, including the refugees and the expellees, who were employed in the public service on 8 May 1945, and who have left service for reasons other than those based on civil service or tariff regulations, and who hitherto have not been employed or not in a position corresponding to their former one, shall be regulated by federal legislation. The same shall apply to persons, including the expellees, who were entitled to a pension or other assistance on 8 May 1945, and who no longer receive such or something equivalent for reasons other than those based on civil service or tariff regulations. Without prejudice to other regulations by Land law, legal claims may not be raised until the federal law comes into force.

Article 143c - 2

- (1) Officials (Beamte) and judges who, at the time this Basic Law comes into force, have been appointed for life may, if they are personally or professionally unsuitable for their office, be placed, within six months of the first meeting of the Volkstag, on the retired list or waiting list in another office with less remuneration. This provision shall apply appropriately also to employees (Angestellte) not subject to notice of dismissal.
- (2) Without prejudice to paragraph (1) promotions and assurances of a financial nature given to members of the Bizonal Economic Administration after the 30th September 1948 may, within six months of the first meeting of the Volkstag, be revoked by the competent Federal Minister.
- (3) The contract of a member of the Bizonal Economic Administration who is not an official (Beamte) may be terminated within six months of the first meeting of the Volkstag with the normal period of notice, even in cases where a period of notice more favourable to the member of the administration was agreed.
- (4) These provisions shall not apply to persons unaffected by the denazification laws or who are recognized victims of national socialism.
- (5) Paragraphs 2 and 3 shall not apply to the ad hoc Administrations (Sonderverwaltungen) subordinate to the central departments of the Bizonal Economic Administration (German Railways in the Combined Economic Area, German Postal Services, etc.) or the corresponding administrations of the French Zone of Occupation.
- (6) Details shall be determined by an order (Verordnungen) of the Federal Government.

Article 143d

The Federation shall succeed to the rights and, in accordance with special legal provisions, to the obligations of the Bizonal Economic Administration.

Article 143e

- (1) Reich property shall become federal property.
- (2) It shall, without compensation, be transferred to the authorities now competent to carry out the functions, insofar as it was originally destined mainly for administrative functions which according to this Basic Law are not federally administered functions, and to the Laender insofar as, according to its present, not solely temporary, use, it serves for administrative functions which according to this Basic Law are now to be fulfilled by the Laender. Articles 118 and 118a shall remain unaffected.
- (3) Property which was placed at the disposal of the Reich by the Laender and Gemeinden (Gemeindeverbaende), without compensation shall again become the property of the Laender and Gemeinden (Gemeindeverbaende), insofar as the Federation does not require it for its own administrative functions.
- (4) Disputes shall be decided by the Federal Constitutional Court.
- (5) Details shall be regulated by a federal law, which shall require the approval of the Bundesrat.

Article 143f

(1) If, between 8 May 1945 and the coming into force of this Basic Law, a territory has changed from one Land to another, in this territory the property of the Land to which the territory belonged shall be transferred to the Land to which the territory now belongs.

(2) Insofar as it was originally destined mainly for administrative functions, or is at present, and not solely temporarily, mainly used for administrative functions the property of Laender and other public law corporations and institutions no longer existing shall be transferred to the Land or public law corporation or institution now performing these functions. Insofar as an overriding interest of the Federation or the particular interests of a territory require it, a regulation deviating from paragraphs (1) to (3) may be adopted by federal legislation.

(3) Real estate of Laender no longer existing, including appurtenances, shall, insofar as it does not already belong to the property within the meaning of paragraph 1, be transferred to the Land in the territory of which it is situated.

(4) Otherwise the legal succession and the settlement (of property), insofar as it has not been effected by 1 January 1952 by agreement between the Laender or public law corporations or institutions concerned, shall be regulated by federal legislation which shall require the approval of the Bundesrat.

(5) Interests of the former Land Prussia in civil law enterprises shall, unless otherwise regulated, pass to the Federation. Details shall be regulated by a federal law.

(6) Insofar as property which, according to paragraphs 1 to 3, would accrue to a Land or a public law corporation or institution, has been disposed of by the authority thereby authorized by means of a Land law, on the basis of a Land law, or in some other way at the coming into force of the Basic Law, the transfer of property shall be considered as having been effected before the disposal.

(7) Article 143e, paragraph 4, shall apply appropriately.

Article 144

Until the election of the first Federal President, his powers shall be exercised by the President of the Bundesrat. He shall not have the right to dissolve the Volkstag.

Article 145

For the election of the first Volkstag, of the first Federal Convention and of the first Federal President of the Federal Republic of Germany the Electoral Law attached to this Basic Law shall apply.

Article 145a

Changes in the existing organisation of notaries in the Laender Baden, Bavaria, Wuerttemberg-Baden und Wuerttemberg-Hohenzollern shall require the approval of the Governments of the Laender.

Article 146

The legal provisions enacted for the liberation of the German people from national-socialism and militarism shall not be affected by the provisions of this Basic Law.

Article 148

The power of the Federal Constitutional Court pursuant to Article 51, paragraph 2, shall be exercised, pending its establishment by the German High Court for the Combined Economic Area which shall decide in accordance with its rules of procedure.

Article 148/1

The provisions of the Articles 137, 138, 139 and 141 of the German Constitution of 11 August 1919 shall remain effective.

Article 148a

Articles 1 to 20 do not conflict with provisions with the same content in the Land Constitutions.

Article 148c

- (1) Whoever by force or the threat of force changes the constitutional order of the Federation or of a Land, deprives the Federal President of the powers accorded to him by this Basic Law or who by force or the threat of danger compels him to exercise his powers in a specific manner or not at all, or prevents the exercise of his powers, or deprives the Federation or a Land of a territory belonging to them, shall be condemned to penal servitude for life or not less than 10 years.
- (2) Whoever publicly incites to an action within the meaning of paragraph 1 or plots or otherwise arranges such an action in connivance with another person, shall be condemned to penal servitude up to 10 years.
- (3) In less serious cases, a sentence of not less than two years penal servitude in the cases provided for in paragraph 1, and of not less than one year imprisonment in the cases provided for in paragraph 2, may be imposed.
- (4) Whoever of his own free will gives up his activity or, in case of participation of several persons, prevents a conspiracy, may not be punished in accordance with the provisions of paragraphs 1 to 3.
- (5) Insofar as the action is directed exclusively against the constitutional order of a land, the highest criminal court of the Land shall, in the absence of any other regulation in Land law, be competent to pass judgement. Otherwise the superior court (Oberlandesgericht), in the district of which the first Federal Government chooses its seat, shall be competent.
- (6) The afore-mentioned provisions shall be valid pending another regulation by federal law.

Article 148f

- (1) The Parliamentary Council with the participation of the representatives of Greater Berlin shall in a public meeting confirm the adoption of this Basic Law, engross it and promulgate it.
- (2) This Basic Law shall come into force with the end of the day of its promulgation.
- (3) It shall be published in the Federal Legal Gazette.

Article 149

This Basic Law shall become invalid on the day when a constitution adopted in a free decision by the German people comes into force.

Article a

Insofar as on 1 January 1949 a legal regulation deviating from the provision of Article 7b, sentence 2, was in force in a Land, such a regulation may be retained.

Article c

The occupation costs and the external and internal war-induced burdens must in principle be borne by the Federation. Details shall be regulated by a federal law in which the terms occupation costs and war-induced burdens must be defined.

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Amendments to Third Reading
as proposed by the Sub-Committees
as at the 24th April 1949

VII - THE LEGISLATION OF THE FEDERATION

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Article 96 x

- (1) The Laender shall have the right of legislation insofar as this Basic Law does not accord legislative powers to the Federation.
- (2) The division of competence between the Federation and the Laender shall be determined in accordance with the provisions of this Basic Law concerning exclusive and concurrent legislation.

Article 33

In the field of exclusive legislation of the Federation, the Laender shall have powers of legislation only if, and so far as, they are expressly so empowered in a federal law.

Article 34

- (1) In the field of concurrent legislation, the Laender shall have powers of legislation so long, and so far as, the Federation makes no use of its legislative right.
- (2) The Federation shall have legislative right in this field insofar as a necessity for regulation by federal law exists because:
 1. A matter cannot be effectively regulated by the legislation of individual Laender, or
 2. The regulation of a matter by a Land law could prejudice the interests of other Laender or of the Laender as a whole, or
 3. The guarantee of legal or economic uniformity demands it.

Article 35

The Federation shall have exclusive legislation on:

1. Foreign Affairs;
2. Citizenship of the Federation;
3. Freedom of movement, passports, immigration and emigration and extradition;
4. Currency, money and coinage, weights and measures and regulation of time and calendar;
5. The unity of customs and commercial territory, commercial and navigation agreements, the freedom of traffic in goods and the traffic in goods and payments with foreign countries;
6. Federal railways and air traffic;
7. Post and telecommunications;

8. The legal status of persons in the employment of the Federation and of public law corporations under direct supervision of the Federal Government;
9. Trade marks, copyright, and publishing rights;
10. Cooperation of the Laender in the criminal police and the establishment of a Federal Office for Criminal Affairs;
11. Statistics for federal purposes.

Article 36

Concurrent legislation shall extend to the following fields:

1. Civil law, criminal law and execution of sentences, constitution of courts, court procedure, the bar, notaries and legal advice (Rechtsberatung);
2. Census and registry matters;
3. Associations and assemblies;
4. The right of sojourn and settlement of aliens;
5. The protection of German works of art against removal abroad;
6. Matters relating to refugees and expellees;
7. Public welfare;
8. Citizenship of the Laender;
9. War damages and compensation (Wiedergutmachung);
10. Provisions for war-disabled persons and surviving dependants, the welfare of former prisoners of war and the care of war graves;
11. Law relating to the economy (mining, industry, power supply, crafts, trades, commerce, banking and stock exchanges, private insurances);
12. Labour law, including the legal organization of enterprises, protection of workers and provision of employment as well as social insurance including unemployment insurance;
13. The furtherance of scientific research;
14. Expropriation;
15. Transfer of land and landed property, natural resources and means of production to public ownership or to other forms of publicly controlled economy;
16. Prevention of the abuse of economic power;
17. Promotion of agricultural and forestry production, safeguarding of food supply, import and export of agricultural and forestry products, deep-sea and coastal fisheries and coastal preservation;
18. Transactions in landed property, law concerning land and agricultural lease, housing, settlements, and homesteads;
19. Measures against epidemic and infectious diseases affecting humans and animals, the licensing for medical and other healing professions and the healing trade and traffic in drugs, medicines, narcotics and poisons;

20. Protection relating to traffic in food and stimulants as well as in necessities of life, in fodder, in agricultural and forestry seeds and seedlings, and protection of trees and plants against diseases and pests;
21. Ocean and coastal shipping and aids to navigation, inland shipping, meteorological service, ocean channels and inland waterways used for general traffic;
22. Street traffic, motor transport and the construction and maintenance of highways used for long-distance transport;
23. Railways other than federal railways, except mountain railways.

Article 36 a

The Federation shall have the right on the basis of Article 97, to issue general provisions concerning:

1. The legal status of persons employed in the public service of the Laender, Gemeinden and other public law corporations;
2. The general legal status of the press and motion pictures;
3. Hunting;
4. Land distribution, regional planning and water conservation;
5. Matters relating to registration and identity cards.

Article 103

- (1) Bills shall be introduced in the Volkstag by the Federal Government, by members of the Volkstag or by the Bundesrat.
- (2) Federal Government bills shall first be submitted to the Bundesrat. The Bundesrat shall have the right to give its opinion on these bills within three weeks.
- (3) Bundesrat bills shall be submitted to the Volkstag by the Federal Government, which must add a statement of its own views.
- (4) The President of the Volkstag must forward to the Bundesrat every bill passed by the Volkstag.

Article 104

- (1) Federal laws shall be passed by the Volkstag.
- (2) The Bundesrat may, within two weeks of the receipt of the adopted bill, demand that a committee composed of members of the Volkstag and Bundesrat be convened to consider the bill jointly. Should the committee propose an alteration of the adopted bill the Volkstag shall take a new decision. Details of the composition and convening of the committee and its procedure shall be laid down in Standing Orders (Rules of Procedure) to be agreed by the Volkstag and the Bundesrat.
- (3) After the conclusion of the procedure provided for in paragraph (2), the Bundesrat may within one week veto a law passed by the Volkstag. The time-limit for a veto shall begin with the conclusion of the procedure provided for in paragraph (2) or with the receipt of the bill as re-adopted by the Volkstag.
- (4) Should a veto be adopted by the majority of the votes of the Bundesrat, it may be rejected by a decision of the majority of the

members of the Volkstag. Should the Bundesrat have adopted the veto by a majority of at least two-thirds of its votes, the rejection by the Volkstag shall require a majority of two-thirds, at least of the majority of the members of the Volkstag.

Article 105

(1) The laws shall be adopted first in the Volkstag and subsequently in the Bundesrat.

(2) In the sphere of legislation on matters for which the approval of the Bundesrat is required a permanent committee shall be formed from members of the Volkstag and Bundesrat which shall be convened on a motion of the Volkstag or the Bundesrat or on the order of its chairman. Its powers, composition and procedure shall be laid down in Standing Orders (Rules of Procedure) to be agreed jointly by the Volkstag and the Bundesrat.

Article 105 a

A law passed by the Volkstag shall be enacted if the Bundesrat has approved the law or has not vetoed it within the statutory time - limit or has withdrawn its veto, or if the veto has been overridden by the Volkstag.

Articles 106 and 108

(1) The Basic Law may be amended only by a law which expressly alters or adds to the text of the Basic Law.

(2) Such a law shall require the approval of two-thirds of the members of the Volkstag and two-thirds of the votes of the Bundesrat.

(3) An amendment to this Basic Law, by which the organization of the Federation into Laender; the basic cooperation of the Laender in legislation or the basic principles laid down in Articles 20c, paragraph (1) and 21 are affected, shall be inadmissible.

Article 108 a

(1) By means of a law the Federal Government, a Federal Minister or the Land Governments may be authorized to issue orders (Rechtsverordnungen). The contents, purpose and scope of such authorization shall be determined in the law. The legal basis must be cited in the order. If a law provides that an authorization may be further transferred, then the transfer of the authorization shall require an order (Rechtsverordnung).

(2) The approval of the Bundesrat shall be required, subject to any other regulation by federal legislation, for orders (Rechtsverordnungen) of the Federal Government or a Federal Minister concerning principles and fees for the use of the facilities of the Federal railways and post and telecommunications, concerning the construction, operation and traffic of railways, as well as those issued on the basis of federal laws which require the approval of the Bundesrat or which are executed by the Laender on behalf of the Federation or as their own concern.

Article 111 z

(1) If in the case of Article 90a a dissolution of the Volkstag does not take place and if the Volkstag rejects a bill declared to be urgent by the Federal Government, the Federal Government may bring in the motion in the Bundesrat to declare the existence of a state of legislative emergency for this bill.

(2) If the Bundesrat agrees, the Federal President shall decide whether for this bill the state of legislative emergency shall be proclaimed.

(3) If the Federal Government re-submits this bill to the Volkstag with the notification of the state of legislative emergency, and if the Volkstag again rejects the bill or passes it in a version stated by the Federal Government to be unacceptable, the bill shall be deemed adopted as soon as the Bundesrat has approved the law. The same shall apply if the bill has not been passed by the Volkstag within four weeks after its re-submission. The law shall become invalid not later than twelve months after its promulgation.

(4) The state of legislative emergency may be claimed for bills of the same Federal Government only within a period of six months after its first proclamation.

(5) The Basic Law may neither be amended nor wholly or partially repealed or suspended by legislation enacted within the terms of a state of legislative emergency.

Article 111 b

(1) Laws enacted according to the provisions of this Basic Law shall be engrossed by the Federal President with the counter-signature of the Federal Chancellor and of the competent Federal Minister and promulgated in the Federal Legal Gazette. Orders (Rechtsverordnungen) shall be signed by the issuing authority and published in the Federal Legal Gazette or Federal Bulletin.

(2) Each law and each order (Rechtsverordnung) shall specify the date of its coming into force. In the absence of such a provision, they shall come into force on the fourteenth day after the end of the day on which the Federal Legal Gazette or the Federal Bulletin has been issued.

DRAFT BASIC LAW

Amendments to Third Reading
as proposed by the Sub-Committees
as at the 24th April 1949

IX- THE EXECUTION OF FEDERAL LAWS AND FEDERAL ADMINISTRATION

Article 112-1

The Laender shall execute the federal laws as their own concern insofar as this Basic Law does not otherwise determine or permit.

Article 112-2

- (1) If the Laender execute the federal laws as their own concern, they shall regulate the establishment of the authorities and the administrative procedure insofar as is not otherwise determined by federal legislation.
- (2) The Federal Government may, with the approval of the Bundesrat, issue general administrative provisions.
- (3) The Federal Government shall exercise supervision to ensure that federal laws are executed by the Laender in accordance with law. For the purpose, the Federal Government may send commissioners to the central Land authorities and, with their approval, and in the case of their refusal with the approval of the Bundesrat, also to the subordinate authorities.
- (4) Should deficiencies established by the Federal Government in the execution of federal laws in the Laender not be overcome, then, on application by the Federal Government or the Land concerned, the Bundesrat shall decide whether the Land has infringed law. Against the decision of the Bundesrat, appeal to the Federal Constitutional Court shall be admissible.
- (5) The Federal Government may by federal legislation be granted in special cases the power to give instructions for matters in which the Federation has legislative competence. These instructions shall, except where the Federal Government considers the case urgent, be directed to the highest Land authorities.

Article 113

- (1) Where the execution of federal laws is delegated to the Laender by the Federation, the establishment of the authorities shall remain a concern of the Laender within the limits of the federal laws.
- (2) The Federal Government may issue, with the approval of the Bundesrat, general administrative provisions. It may regulate the uniform training of officials and employees. The heads of the authorities at middle level shall be appointed with its agreement.
- (3) The Land authorities shall be subordinate to the highest competent federal authorities. Except where the Federal Government considers it urgent, the directives shall be directed to the highest Land authorities. Execution of the directive shall be ensured by the highest Land authority.
- (4) Federal supervision shall extend to the legality and suitability of the manner of execution. The Federal Government may for this purpose demand submission of reports and documents and send commissioners to all authorities.

Article 115

If the Federation executes the laws by direct federal administration or by public law corporations or institutions directly supervised by the federation, the Federal Government shall insofar as the law does not prescribe details issue general administrative provisions. It shall regulate insofar as it is not otherwise determined by the law the establishment of the authorities.

Article 116

(1) The foreign service, the federal finance administration, the federal railways, the federal postal services and, in accordance with the provisions of Article 118, the administration of the federal waterways and shipping, shall be conducted by a direct federal administration with their own lower level administrative offices.

(2) Public law corporations directly supervised by the Federation shall be those carriers of social insurance whose sphere of competence extends beyond the territory of a Land.

(3) In addition, independent central federal authorities and new public law corporations and institutions directly supervised by the Federation may be established by federal legislation for matters on which the Federation has the power to legislate. Should the Federation acquire new functions in matters for which it has legislative competence, federal authorities at middle and lower levels may in case of urgent need be established with the approval of the Volkstag and the majority of the votes of the Bundesrat.

Article 116a

The Federation shall establish a bank of currency and issue as federal bank.

Article 118

(1) The Federation shall be the owner of the former Reich waterways.

(2) The Federation shall administer the federal waterways through its own authorities. It shall exercise those state functions relating to inland shipping extending beyond the territory of a Land and the functions of ocean-going shipping which are conferred on it by law. The Federation may delegate the administration of federal waterways insofar as they lie within the territory of a Land, to this Land, upon request. Should a waterway touch the territories of several Laender, the Federation may delegate the administration to the Land agreed upon by the Laender concerned.

(3) In the administration, development and new construction of waterways, the requirements of soil and water conservation shall be observed in agreement with the Laender.

Article 118a

(1) The Federation shall be the owner of the former Reich Autobahnen and Reich highways.

(2) The Laender, or such self-governing corporations under public law as have been given a function in accordance with Land law, shall administer the federal Autobahnen and other federal highways used for long-distance traffic on behalf of the Federation.

(3) At the request of a Land, the Federation may take over into direct federal administration federal motor highways and other federal highways used for long-distance traffic, insofar as they lie within the territory of this Land.

Article 118c

- (1) In order to avert an imminent danger to the existence or the free and democratic basic order of the Federation or a Land, a Land may call in the police forces of other Laender.
- (2) If the Land in which the danger is imminent is not itself prepared or in a position to combat the danger, the Federal Government may place the police in that Land or the police forces of other Laender under its instructions. The order (Anordnung) shall be rescinded after the danger has been overcome, otherwise at any time on demand from the Bundesrat.

DRAFT BASIC LAW

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as at the 24th April 1949

X - FINANCE

Article 122a (Legislation)

- (1) The Federation shall have exclusive legislation in customs and financial monopolies.
- (2) The following shall fall under concurrent legislation:
 1. excise taxes and taxes on transactions, with the exception of taxes with localized application, in particular the taxes on real estate acquisition, incremental value and on fire protection.
 2. the taxes on income, property, inheritance and donations;
 3. "Realsteuern" (taxes on real estate and on businesses), with the exception of the fixing of tax rates, if it makes a claim on the taxes in their entirety or in part or if the conditions of Article 34c, paragraph (2), apply.
- (3) Federal legislation on taxes the yield of which accrues in entirety or in part to the Laender or the Gemeinden (Gemeindeverbaende) shall require the approval of the Bundesrat.

Article 122b (Distribution of Taxes)

- (1) Customs, the yield of monopolies, the excise taxes with the exception of the beer tax, the transportation tax, the turnover tax and property dues serving non-recurrent purposes shall accrue to the Federation.
- (2) The beer tax, the taxes on transactions with the exception of the transportation tax and turnover tax, the income and corporation taxes, the property tax, the inheritance tax, the "Realsteuern" and the taxes with localized application shall accrue to the Laender and, in accordance with Land legislation, to the Gemeinden (Gemeindeverbaende).
- (3) The Federation may, by means of a federal law which shall require the approval of the Bundesrat, make a claim to a part of the income and corporation taxes to cover its expenditures not covered by other revenues, in particular to cover grants which are to be made to Laender to meet expenditures in the fields of education, public health and welfare.
- (4) In order to ensure the working efficiency also of the Laender with low revenues and to equalize the differing burden of expenditure of the Laender, the Federation may make grants or determine that, in the case of individual taxes or shares in taxes accruing to the Laender, the yield or a part of the yield shall be calculated between the Laender on a basis other than that of the local yield, separately for each tax and each share in a tax; this shall not apply to the "Realsteuern" and the taxes with localized application. The federal law to be passed on this shall require the approval of the Bundesrat.

Article 122c (Final Distribution)

The final distribution of the taxes subject to concurrent legislation between the Federation and the Laender shall be effected not later than 31 December 1952 and by means of a federal law which shall require the approval of the Bundesrat. This shall not apply to the "Realsteuern" and the taxes with localized application. In doing so both Federation and Laender shall be given a legal claim to certain taxes or shares in taxes corresponding to their expenditures.

Article 123 (Administration)

- (1) Customs, financial monopolies, the excise taxes subject to concurrent legislation, the transportation tax and the turnover tax and the non-recurrent property dues, shall be administered by Federal finance authorities. The structure of these authorities, including the respective finance courts, and the procedure to be applied by them shall be regulated by federal legislation. The heads of the authorities at middle level shall be appointed by agreement with the Laender governments.
- (2) The remaining taxes shall be administered by Land finance authorities. The Federation may, by means of federal legislation which shall require the approval of the Bundesrat, regulate the structure of these authorities, including the respective finance courts, the procedure to be applied by them and the uniform training of the officials. The heads of the authorities at middle level must be appointed by agreement with the Federal Government. The administration of the taxes accruing to the Gemeinden (Gemeindeverbaende) may be transferred by the Laender in entirety or in part to the Gemeinden (Gemeindeverbaende). Insofar as the taxes accrue to the Federation, the Land finance authorities shall act on behalf of the Federation. The Laender shall be liable with their revenues for a regular administration of these taxes; the Federal Minister of Finance may supervise the regular administration through federal plenipotentiaries who shall have the right to give instruction to the authorities at middle and lower level.
- (3) Insofar as the Federation makes a claim to a part of the income and corporation taxes it shall have the right to administer them. It may, however, delegate the administration to the Land financial authorities.
- (4) The general administrative provisions shall be issued by the Federal Government and, insofar as the administration is incumbent upon the Land finance authorities, with the approval of the Bundesrat.